

Modification proposal:	Connection and Use of System Code (CUSC) CMP283: Consequential Changes to enable the Interconnector Cap and Floor regime (CMP283)		
Decision:	The Authority ¹ directs that this modification be made ²		
Target audience:	National Grid Electricity Transmission PLC (NGET), Parties to the CUSC, the CUSC Panel and other interested parties		
Date of publication:	10 November 2017	Implementation date:	15 November 2017

Background

In November 2016, the Authority directed changes³ to the standard conditions of the electricity interconnector licence, the electricity interconnector licences held by Nemo Link, for the Nemo interconnector and National Grid Interconnectors Limited (NGIL), for IFA interconnector, as well as the electricity transmission licence held by National Grid Electricity Transmission (NGET). These changes were required in order to implement the cap and floor regime⁴ and IFA's 'use of revenues' framework.⁵

NGIL's special conditions put in place a mechanism which allows surplus funds (that cannot be used in accordance with one of the allowed uses specified in the Use of Revenues requirements) to be returned to consumers by reducing network charges.

The interconnector cap and floor regime was introduced in order to encourage investment in electricity interconnectors by striking a balance between commercial incentives and appropriate risk mitigation for project developers. The cap & floor regime guarantees a minimum income for the interconnector (the floor), but also places a limit on the maximum amount of revenue an interconnector can earn (the cap).

The floor is set at a level that ensures that an interconnector will be able to cover its annual operating expenditure and service its debt. The cap is set at a level to ensure that equity investors receive sufficient, but not excessive returns.

If an interconnector fails to earn sufficient revenue from its operations to meet the floor, the remainder will be recovered from consumers via Transmission Network Use of System Charges (TNUoS). Conversely, if an interconnector's revenue exceeds the cap, the interconnector will return the excess amounts to NGET, which will in turn reduce TNUoS charges.

The cap and floor regime lasts for 25 years, and consists of 5 assessment periods, each lasting 5 years. In each 5-year assessment period, there is the opportunity for a licensee to request a within-period adjustment (WPA) in order to pre-empt potentially large end-of-period adjustments.

The details of how these payments between interconnectors and NGET would work (invoicing/payment timings and data sharing) were envisaged to sit within the CUSC.

¹ References to the "Authority", "Ofgem", "we" and "our" are used interchangeably in this document. The Authority refers to GEMA, the Gas and Electricity Markets Authority. The Office of Gas and Electricity Markets (Ofgem) supports GEMA in its day to day work. This decision is made by or on behalf of GEMA.

² This document is notice of the reasons for this decision as required by section 49A of the Electricity Act 1989.

³ https://www.ofgem.gov.uk/system/files/docs/2016/11/decision_letter_for_licence_changes.pdf

⁴ https://www.ofgem.gov.uk/system/files/docs/2016/05/cap_and_floor_brochure.pdf

⁵ https://www.ofgem.gov.uk/system/files/docs/2016/08/publication_of_ifa_use_of_revenues_framework_201608_22.pdf

The modification proposal

This modification proposal was raised by NGET on 22 June 2017. The modification proposal aims to facilitate the implementation of the cap and floor regime by giving practical effect to the licence changes made by the Authority and establishing processes within the CUSC, which set out the detailed arrangements for payments between interconnectors and NGET.

At present, arrangements to facilitate the exchange of payments and data between NGET and interconnectors do not exist within the CUSC. This modification proposal seeks to address this by making consequential changes to the CUSC to put in place such arrangements. This will allow interconnector revenue data to feed into setting and forecasting TNUoS charges.

Similar arrangements are already set out in the System Operator Transmission Owner Code (STC), for Offshore Transmission Owners (OFTOs) and the Scottish Transmission Owners (TO). Interconnectors are not signatories of the STC. CMP283 proposes that the CUSC modifications follow the arrangements in place in the STC.

The modification therefore proposes introducing new provisions in Section 9 of the CUSC⁶ relating to the following:

- Data exchange for charge setting.
- Revenue forecast information provision.
- Invoicing and Payment.
- Use of substitute data.

The proposed modification is intended to facilitate payments between Nemo Link and NGET, as well as payments between NGET and any future interconnector projects granted a cap and floor regime by the Authority. It will also allow for payments from NGIL to NGET in accordance with IFA's 'use of revenues' framework.

CUSC Panel⁷ recommendation

At the CUSC Panel meeting on 29 September 2017, the CUSC Panel unanimously considered that CMP283 would better facilitate the CUSC objectives and the Panel therefore recommended its approval.

Our decision

We have considered the issues raised by the modification proposal and the Final Modification Report (FMR) dated 6 October 2017. We have considered and taken into account the responses to the industry consultation on the modification proposal which are attached to the FMR⁸. We have concluded that:

- implementation of the modification proposal will better facilitate the achievement of the applicable objectives of the CUSC;⁹ and

⁶ This would replicate within section 9 of CUSC, the equivalent provisions in STCP 13, 14 and 24.

⁷ The CUSC Panel is established and constituted from time to time pursuant to and in accordance with section 8 of the CUSC.

⁸ CUSC modification proposals, modification reports and representations can be viewed on NGET's website at: <http://www2.nationalgrid.com/UK/Industry-information/Electricity-codes/CUSC/Modifications/>

⁹ As set out in Standard Condition C10(1) of the electricity Transmission Licence, see: <https://epr.ofgem.gov.uk/Content/Documents/Electricity%20transmission%20full%20set%20of%20consolidated%20standard%20licence%20conditions%20-%20Current%20Version.pdf>

- directing that the modification be made is consistent with our principal objective and statutory duties.¹⁰

Reasons for our decision

We consider this modification proposal will better facilitate CUSC objective (a) and has a neutral impact on the other applicable objectives.

(a) the efficient discharge by the licensee of the obligations imposed upon it under the Act and by this licence

The licence changes directed by the Authority in November 2016 amended the special conditions of the electricity transmission licence held by NGET to give effect to its role in processing payments to/from interconnector licensees.

These changes require NGET to amend its transmission charges to reflect payments to/from interconnector licensees which have been granted a cap and floor regime and also reflect payments from NGIL in accordance with its Use of Revenues requirements.¹¹ As part of these licence changes, the detailed arrangements of how such payments are made in practice were envisaged to be set out in the CUSC.

The changes proposed by CMP283 will ensure that, in line with those licence changes, arrangements with respect to payments between NGET and interconnectors are set out in the CUSC.

The proposed modification gives practical effect to licence changes that have already been made. We note that the proposed changes stated in the legal text are also consistent with existing and similar established processes under the STC.

We therefore agree that CMP283 better facilitates CUSC applicable objective (a) by facilitating payments to/from interconnector licensees in line with the relevant licence obligations.

Related issue - end of period adjustments

During the consultation stage, Nemo Link responded stating that because of Ofgem's approval processes, they would only know their actual/approved revenue for Year t-1, after the Year t final forecast deadline (25 January) for the Interconnector Adjustment Payments.

Therefore, Nemo Link would only be able to claim that revenue in the TNUoS cycle starting in Year t+1. This would potentially result in a delay in paying/receiving cap/floor revenue from December Year t-1 to April Year t+1, i.e. 15 months.

The approval processes referred to by the Nemo are end-of-period adjustments and WPAs. End of period adjustments do not have a formal approval process and are calculated mechanistically in accordance with the licence. Whereas for a WPA, the grounds for the request as well as the adjustment value requires Ofgem approval.

Pursuant to Nemo's special licence conditions¹², a WPA can be submitted to Ofgem (a) not earlier than three months before the end of the Relevant Partial Assessment Period to

¹⁰ The Authority's statutory duties are wider than matters which the Panel must take into consideration and are detailed mainly in the Electricity Act 1989 as amended.

¹¹ We anticipate using similar arrangements to those proposed here for NGIL to allow NGET to receive payments from interconnector licensees which have a cap on revenues imposed in any exemption order.

¹² Special Condition 6, Part A, Paragraph 7.

which the request relates; and (b) not later than three months after the end of the Relevant Partial Assessment Period to which the request relates.

Taking into account Ofgem's 3-month assessment period for WPAs, it may be possible for an interconnector operating on a calendar year basis, such as Nemo Link to submit a WPA request and secure approval in time for the 25 January final forecast. It should also be noted that in our 2014 decision¹³ on the cap and floor regime for Nemo Link, we recognised that it may not be possible for adjustments¹⁴ to feed into the subsequent charging year.

Decision notice

In accordance with Standard Condition C10 of NGET's Transmission Licence, the Authority, hereby directs that modification proposal CMP283: 'Consequential changes to enable the Interconnector Cap and Floor regime' be made.

Akshay Kaul
Partner – Networks

Signed on behalf of the Authority and authorised for that purpose

¹³https://www.ofgem.gov.uk/sites/default/files/docs/2014/12/final_cap_and_floor_regime_design_for_nemo_m aster_-_for_publication_1.pdf

¹⁴ Within-period adjustments, end-of-period adjustments, income adjusting events and adjustments for pass-through costs.